

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Final Office Action (FOA) mailed on July 8, 2010, and the references cited therewith.

Claims 96-98, 100-104 and 106 are amended, claims 1-95 are canceled, and no claims are added; as a result, claims 96-106 are now pending in this application.

Information Disclosure Statement

Applicant respectfully requests that a copy of the 1449 Form, listing all references that were submitted with the Information Disclosure Statement filed on December 20, 1996, marked as being considered and initialed by the Examiner, be returned with the next official communication.

Dayco / McKesson Disclosure

In accordance with the undersigned's current understanding of the obligations imposed by *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003) and *McKesson Information Solutions, Inc. v. Bridge Medical, Inc.*, 487 F.3d 897 (Fed. Cir. 2007), the following co-pending application(s) whose file history may contain material information are identified. In assessing the patentability of the pending claims, the Office is respectfully requested to review the file history of each of the listed co-pending application(s), determine whether such co-pending application has "similar subject matter" and, if so, consider each Office Action, including each reference on which a rejection is based, and each paper submitted by Applicant therein.

- a. The subject application is related in subject matter to co-pending U.S. patent application Serial No. 08/312,881, filed on September 27, 1994. Assignee filed a Preliminary Amendment on January 17, 1995, plus a Supplemental Preliminary Amendment on January 30, 1995. Assignee filed a Response on August 22, 1995, to a Restriction/Election issued on August 1, 1995. Assignee filed a Response on May 17, 1996, to a Non-Final Office Action issued on November 17, 1995, in which Examiner L. Fossum cited US 5,366,504, US 5,387,235, US 5,389,106, US 5,405,377, WO 89 08433, EP 480,667, FR 2 678 508, and DE 43 03 181. Assignee filed a Response on November 25, 1996, to a Final Office Action issued on August 23, 1996. Assignee filed a Response on January 23, 1997, to an Advisory Action

issued on January 6, 1997. Assignee filed a Response, plus a Request for Interference on May 20, 1997, to a Notice of Allowance issued on February 20, 1997. A Notice of Withdrawal from Issue was issued on May 30, 1997. Assignee filed a Response on October 13, 1998, to an Interference Letter issued on November 26, 1997. Assignee filed a Response on June 2, 2003, to a Non-Final Office Action issued on January 31, 2003. A Letter of Suspension – Examiner Initiated was issued on October 14, 2004. A Letter of Suspension – Examiner Initiated was issued on August 1, 2005. Assignee filed a Response on June 8, 2006, to a Letter of Suspension – Examiner Initiated issued on April 21, 2006. Assignee filed a Communication regarding Suspension on January 8, 2007. A Letter of Suspension – Examiner Initiated was issued on January 12, 2007. Assignee filed a Response on April 29, 2009, to a Letter of Suspension – Examiner Initiated issued on October 29, 2007. Assignee filed a Response on July 26, 2010, to a Non-Final Office Action issued on March 25, 2010, in which Examiner Kathleen C. Sonnett cited US 5,398,981, US 1,417,396, US 4,781,703, US 5,330,500, US 5,387,235, US 5,197,978 and US 5,578,817.

- b. The subject application is related in subject matter to co-pending U.S. patent application Serial No. 08/463,987, filed on June 5, 1995. Assignee filed a Response on December 16, 1996 and a Supplemental Amendment on April 17, 1997, to a Non-Final Office Action issued on August 16, 1996, in which Examiner M. Milano cited US 5,405,377, US 5,397,345, US 5,360,443 and US 3,657,744. Assignee filed a Response on August 28, 1997, to a Final Office Action issued on April 21, 1997, in which Examiner M. Milano cited US 5,609,605, US 5,575,817, and US 5,562,726. Assignee filed a Response and a Notice of Appeal on October 15, 1997, to an Advisory Action issued on October 1, 1997. Assignee filed a Response on April 30, 2009, to an Interference Letter issued on November 26, 1997.
- c. The subject application is related in subject matter to co-pending U.S. patent application Serial No. 09/427,310, filed on October 26, 1999. Assignee filed a Response on April 29, 2002, to a Non-Final Office Action issued on January 29, 2002, in which Examiner Javier G. Blanco cited US 5,282,824 and US 5,064,435. Assignee filed a Response on October 30, 2002, to a Non-Final Office Action issued on August 2, 2002, in which Examiner Javier G. Blanco cited US 5,330,500, US 5,354,308, US 6,197,045, US 6,398,807, and US 6,409,750. Assignee filed a Response on June 3, 2003, to a Final Office Action issued on January 30, 2003, in which Examiner Javier G. Blanco cited US 5,383,892. Assignee filed a Notice of Appeal on July 30, 2003, to an Advisory Action issued on June 30, 2003. Assignee filed a Request for Continued Examination on January 30, 2004. Assignee filed a Response on September 30, 2004, to a Non-Final Office Action issued on March 30, 2004, in which Examiner Javier G. Blanco cited US 5,575,818

and US 5,782,906. Assignee filed a Request for Continued Examination on June 28, 2005, to a Final Office Action issued on December 28, 2004. Assignee filed a Response on June 29, 2006, to a Non-Final Office Action issued on February 3, 2006. Assignee filed a Notice of Appeal and a Pre-Brief Conference Request on March 16, 2007, to a Final Office Action issued on September 18, 2006. Assignee filed an Appeal Brief on November 13, 2007, to a Pre-Brief Appeal Conference Decision issued on May 11, 2007. Assignee filed a Reply Brief on March 27, 2008, to an Examiner's Answer to Appeal Brief issued on February 4, 2008. A BPAI Decision on Appeal was issued on January 27, 2010. A Notice of Abandonment was issued on May 6, 2010.

Examiner Interview Summary

Applicant and Examiner Sonnett conducted a telephone interview on September 8, 2010, to discuss the claim language and amendments thereof in light of the references cited in the present FOA. Agreement appeared to be reached that the amended claim language included in the independent claims of the present response overcomes the teachings of the cited references, pending search for additional references. Applicant thanks Examiner Sonnett for her time and consideration.

Claim Objections

Claim 96 is objected to because of the following informalities: in the last line of the 5th indented section, "bifurcate" should read "bifurcated". Appropriate correction was required.

Applicant has amended independent claim 96 to overcome the objection thereto. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to independent claim 96, as currently amended.

§ 112 Rejection of the Claims

Claims 96-106 were rejected under 35 USC § 112, first paragraph, as allegedly failing to comply with the written description requirement. The claim(s) allegedly contains subject matter that was not described in the specification in such a

way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant respectfully traverses the rejection as follows.

Applicant notes that the claim language at issue in claims 96, 98, 104, and 106 is supported in a number of locations in the present disclosure as originally submitted. For example, such claim language is supported at: page 4, line 7, through page 5, line 3; page 5, line 18, through page 7, line 19; page 13, line 10, through page 15, line 1; page 25, line 22, through page 26, line 12; among other locations. That is, Applicant respectfully submits that subject matter that is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 112 rejection of claims 96-106.

Claims 97-98 and 101-103 were rejected under 35 USC § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Applicant respectfully traverses the rejection as follows.

Applicant has amended claims 97-98 and 101-103 to overcome the 112 rejection thereof. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 112 rejection of claims 97-98 and 101-103, as currently amended.

§ 102 Rejection of the Claims

Claims 96-99 and 101-103 were rejected under 35 USC § 102(e) as being allegedly anticipated by Martin (U.S. Patent No. 5,575,817). Applicant respectfully traverses the rejection as follows.

Applicant does not admit that the Martin '817 reference is indeed prior art and reserves the right to swear behind at a later date. Nonetheless, in the interest of advancing prosecution of the present application, Applicant respectfully submits that the claim language recited herein includes subject matter that is patentably distinguishable from the teachings of the Martin '817 reference for at least the following reasons.

Applicant's independent claim 96, as currently amended, presently recites in part:

wherein the proximal stent and the at least one distal stent each comprises a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of said hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of said stent, wherein apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means;

Applicant notes that the Martin '817 reference appears to teach, "The whole of this first section is bonded and attached to the inside of a compressible expanding mesh support 7. The support may be a stent or similar structure." (Col. 3, lines 12-14).

However, Applicant respectfully submits that, among other deficiencies, the Martin '817 reference does not teach in sufficient detail or arranged in the same manner as the element of the proximal stent and the at least one distal stent each including a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of the hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of the stent, where apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means.

As such, Applicant respectfully submits that the Martin '817 reference does not teach each and every element and limitation of Applicant's independent claim

96, as currently amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 102 rejection of independent claim 96, as currently amended, as well as those claims that depend therefrom.

§ 103 Rejection of the Claims

Claim 100 was rejected under 35 USC § 103(a) as being allegedly unpatentable over Martin '817 in view of Liebig (U.S. Patent No. 3,805,301). Applicant respectfully traverses the rejection as follows.

Claim 100 depends from independent claim 96. As presented above, Applicant respectfully submits that independent claim 96, as currently amended, is in condition for allowance in light of the deficiencies of the Martin '817 reference. Applicant respectfully submits that the Liebig reference does not cure the deficiencies of the Martin '817 reference. That is, the Martin '817 and the Liebig references, individually or in combination, do not teach, suggest, or render obvious:

wherein the proximal stent and the at least one distal stent each comprises a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of said hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of said stent, wherein apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means;

as recited in Applicant's independent claim 96, as currently amended.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of dependent claim 100.

Claims 96-99 and 101-103 were rejected under 35 USC § 103(a) as being allegedly unpatentable over Papazoglou (U.S. Patent No. 6,098,630) in view of Martin '817. Applicant respectfully traverses the rejection as follows.

Applicant does not admit that either of the Papazoglou and the Martin '817 references is indeed prior art and reserves the right to swear behind at a later date.

Nonetheless, in the interest of advancing prosecution of the present application, Applicant respectfully submits that the claim language recited herein includes subject matter that is patentably distinguishable from the teachings of the Papazoglou and the Martin '817 references for at least the following reasons.

Applicant's independent claim 96, as currently amended, presently recites in part:

wherein the proximal stent and the at least one distal stent each comprises a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of said hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of said stent, wherein apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means;

Applicant notes that the Papazoglou reference appears to teach, "An expandable blood vessel graft facilitates the rapid and secure insertion of the graft in a blood vessel." (Abstract). Applicant further notes that the Martin '817 reference appears to teach, "The whole of this first section is bonded and attached to the inside of a compressible expanding mesh support 7. The support may be a stent or similar structure." (Col. 3, lines 12-14).

However, Applicant respectfully submits that, among other deficiencies, the Papazoglou reference and the Martin '817 reference, individually or in combination, do not teach, suggest, or render obvious in sufficient detail or arranged in the same manner as the element of the proximal stent and the at least one distal stent each including a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of the hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of the stent, where apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means.

As such, Applicant respectfully submits that Papazoglou and Martin '817 references, individually or in combination, do not teach, suggest, or render obvious each and every element and limitation of Applicant's independent claim 96, as currently amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of independent claim 96, as currently amended, as well as those claims that depend therefrom.

Claims 104 and 106 were rejected under 35 USC § 103(a) as being allegedly unpatentable over Papazoglou in view of Martin '817 and Martin (U.S. Patent No. 5,653,743). Applicant respectfully traverses the rejection as follows.

Applicant does not admit that any of the Papazoglou, Martin '817, and Martin '742 references is indeed prior art and reserves the right to swear behind at a later date. Nonetheless, in the interest of advancing prosecution of the present application, Applicant respectfully submits that the claim language recited herein includes subject matter that is patentably distinguishable from the teachings of the Papazoglou, Martin '817, and Martin '743 references for at least the following reasons.

Applicant's independent claims 104 and 106, as currently amended, each presently recites in part:

wherein the proximal stent and the at least one distal stent each comprises a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of said hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of said stent, wherein apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means;

Applicant notes that the Papazoglou reference appears to teach, "An expandable blood vessel graft facilitates the rapid and secure insertion of the graft in a blood vessel." (Abstract). Applicant further notes that the Martin '817 reference appears to teach, "The whole of this first section is bonded and attached to the inside

of a compressible expanding mesh support 7. The support may be a stent or similar structure.” (Col. 3, lines 12-14). Moreover, the Martin ‘743 reference appears to teach, “A small bifurcated graft is described which may be placed in each hypogastric artery to maintain patency both to it and to the external iliac artery and the leg below.” (Abstract).

However, Applicant respectfully submits that, among other deficiencies, the Papazoglou, Martin ‘817, and Martin ‘743 references, individually or in combination, do not teach, suggest, or render obvious in sufficient detail or arranged in the same manner as the element of the proximal stent and the at least one distal stent each including a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of the hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of the stent, where apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means.

As such, Applicant respectfully submits that the Papazoglou, Martin ‘817, and Martin ‘743 references, individually or in combination, do not teach, suggest, or render obvious each and every element and limitation of Applicant’s independent claims 104 and 106, as currently amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of independent claims 104 and 106, as currently amended, as well as those claims that depend therefrom.

Claim 105 was rejected under 35 USC § 103(a) as being allegedly unpatentable over Papazoglou in view of Martin ‘817 and Martin ‘743, as applied to claim 104 above and further in view of Chuter (U.S. Patent No. 5,562,726). Applicant respectfully traverses the rejection as follows.

Claim 105 depends from independent claim 104. As presented above, Applicant respectfully submits that independent claim 104, as currently amended, is in condition for allowance in light of the deficiencies of the Papazoglou, Martin

'817, and Martin '743 references. Applicant respectfully submits that the Chuter reference does not cure the deficiencies of the Papazoglou, Martin '817, and Martin '743 references. That is, the Papazoglou, Martin '817, Martin '743, and Chuter references, individually or in combination, do not teach, suggest, or render obvious:

wherein the proximal stent and the at least one distal stent each comprises a plurality of hoops which are axially displaced in a tubular configuration along a common axis, each of said hoops being formed by a substantially complete turn of a sinuous wire having apices and having a circumference that lies in a plane substantially perpendicular to the longitudinal axis of said stent, wherein apices of adjacent hoops are juxtaposed to one another and at least two juxtaposed apices are connected by a securing means;

as recited in Applicant's independent claim 104, as currently amended.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of dependent claim 105.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at 612-236-0126 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this 20th day of

September, 2010

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Date: Sept 20, 2010